

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ARTHUR JOHNSON,

Plaintiff,

v.

Case No. 08-cv-10442
Hon. Denise Page Hood

NANCY YIRKO, M.A., and
MICHAEL BURGESS, D.O.

Defendants.

ORDER ACCEPTING REPORT AND RECOMMENDATION
AND
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
AND
DISMISSING THE COMPLAINT

This matter is before the Court on the February 3, 2009 Report and Recommendation ("R&R") of Magistrate Judge Paul J. Komives [**Docket No. 24**], which recommends granting Defendants' Motion for Summary Judgment [**Docket No. 18, filed Aug. 21, 2008**]. In sum, the Magistrate Judge concluded that Plaintiff failed to allege the subjective prong of the deliberate indifference analysis, and consequently has not stated a claim on which relief can be granted.

To date, neither party has filed an objection to the R&R, and the time do so has expired.¹

¹ Although the Court does note that subsequent to the February 3, 2009 R&R, Plaintiff submitted two handwritten letters to the Court [**Docket Nos. 25 and 26**]. The first letter, filed February 12, 2009, requests the Defendants to "reissue the items sent to me so that I may examine them in full myself." In his letter, Plaintiff also indicates that he has proof of "acts of revenge toward [him] by JCS staff through medical personnel," and that he intends to provide documentation of these items. Plaintiff then goes on to describe various events that purport corruption. Plaintiff concludes by reiterating his desire to see change in how medical care is handled at the facility.

The second letter, dated March 8, 2009, provides the Court with Plaintiff's anticipated release date, and describes other physical ailments of the Plaintiff. Namely, visual impairments and chronic back pain that requires narcotics. In the March 8, 2009 letter, the Plaintiff also

This Court agrees with the recommendation of the Magistrate Judge in finding that Plaintiff has failed to demonstrate, or even allege, the subjective prong of the deliberate indifference analysis. *Comstock v. McCrary*, 273 F.3d 693, 703 (6th Cir. 2001) (“the subjective component requires a plaintiff to ‘allege facts which, if true, would show that the official being sued subjectively perceived facts from which to infer substantial risk to the prisoner, that he did in fact draw the inference, and that he then disregarded that risk.’” As such, Plaintiff’s claim must fail as a matter of law.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Paul J. Komives [**Docket No. 24, filed Feb. 3, 2009**] is **ACCEPTED** and **ADOPTED** as this Court’s findings and conclusions of law.

IT IS FURTHER ORDERED that Defendants’ Motion for Summary Judgment [**Docket No. 18, filed Aug. 21, 2008**] is **GRANTED**.

IT IS FURTHER ORDERED that Defendants’ Motion to Compel Responses to Interrogatories [**Docket No. 19, filed Sept. 2, 2008**] is **MOOT**.

IT IS FURTHER ORDERED that Defendants’ Motion to Dismiss for Failure to Prosecute [**Docket No. 20, filed Sept. 5, 2008**] is **MOOT**.

IT IS FURTHER ORDERED that Plaintiff’s Complaint [**Docket No. 1, filed Jan. 31,**

explains his distrust of the Defendants and their co-workers, because he was allegedly transferred to another facility for medical reasons, and because the Defendants have obtained copies of his medical records without his consent. Plaintiff concludes this letter by requesting the assistance of the Court: (1) by ensuring that the Defendants “keep their distance;” (2) ordering the sheriff and his deputies to seek outside medical care for him; and (3) ordering the Defendants to answer his question regarding the storage of insulin.

2008] is **DISMISSED**.

S/Denise Page Hood

Denise Page Hood
United States District Judge

Dated: March 31, 2009

I hereby certify that a copy of the foregoing document was served upon Arthur Johnson, Reg. No. 220382, 3855 Cooper St., R.G.C., Jackson, MI 48201 and counsel of record on March 31, 2009, by electronic and/or ordinary mail.

S/William F. Lewis

Case Manager